689 B (62) (62)

Nos. 05-908 & 05-915

FILED
OCT 19 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

PARENTS INVOLVED IN COMMUNITY SCHOOLS,

Petitioners,

—v.—

SEATTLE SCHOOL DISTRICT NO. 1, *et al.*,

Respondents.

CRYSTAL D. MEREDITH, Custodial Parent and Next Friend of Joshua Ryan McDonald,

Petitioner,

—v.—

JEFFERSON COUNTY BOARD OF EDUCATION, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURTS OF APPEALS FOR THE NINTH AND SIXTH CIRCUITS, RESPECTIVELY

BRIEF OF RELIGIOUS ORGANIZATIONS AND AFFILIATED INDIVIDUALS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

WILLIAM T. RUSSELL, JR.
Counsel of Record
DANIEL H. TABAK
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, New York 10017
(212) 455-2000

Counsel for Amici Curiae

Table of Contents

Page

STATEMENT OF INTEREST OF *AMICI CURIAE* 1

SUMMARY OF ARGUMENT 1

ARGUMENT 4

I. The Assimilation of Minorities Through Integrated Schools Helps Avoid the Alienation of Religious Minorities That Has Resulted in Unrest in Other Nations 4

II. Integrated Schools Serve the Compelling State Interest of Providing a Superior Education by Instilling Democratic Values and Preparing Schoolchildren for a Diverse Workforce and Society 9

A. Exposure to Diverse Schoolmates Fosters Tolerance and Open-Mindedness and Helps Students Move Beyond Stereotypes 11

B. Integrated Schools Enhance Students' and Parents' Civic Involvement and Foster a United, Rather Than Divided, Community and Country ... 14

III. While "Separate But Equal" Has Been Condemned as Unconstitutional for More Than Half a Century, Courts Have Long Recognized the Converse – Improving Education Through Integration of Students – as a Compelling State Interest 17

A. The Remedy of Desegregation Rests on the Compelling Interest of Integrating Schools 17

B. School Districts May Voluntarily Undertake Measures to Further the Compelling Interest of Improving Education by Integrating Their Schools 19

IV. VOLUNTARY INTEGRATION PROGRAMS IN THE PUBLIC SCHOOL SYSTEM CONTEXT DO NOT RAISE THE SAME NARROW TAILORING CONCERNS AS AFFIRMATIVE ACTION PROGRAMS 22

CONCLUSION 25

Table of Authorities

Cases

Adarand Constr., Inc. v. Peña, 515 U.S. 200 (1995)..... 22, 23

Bd. of Educ. v. Dowell, 498 U.S. 237 (1991)..... 20

Brown v. Bd. of Educ., 347 U.S. 483 (1954)..... *passim*

Brown v. Bd. of Educ., 349 U.S. 294 (1955) ("*Brown II*")..... 17

Bustop, Inc. v. Bd. of Educ., 439 U.S. 1380 (1978)..... 22

Campaign for Fiscal Equity, Inc. v. State, 655 N.E.2d 661 (N.Y. 1995)..... 11

Columbus Bd. of Educ. v. Penick, 443 U.S. 449 (1979)..... 17, 21

Delaware State Bd. of Educ. v. Evans, 446 U.S. 923 (1980)..... 22

Freeman v. Pitts, 503 U.S. 467 (1992)..... 18

Grutter v. Bollinger, 539 U.S. 306 (2003)..... *passim*

Illinois ex rel. *McCollum v. Bd. of Educ.*, 333 U.S. 203 (1948)..... 14

Keyes v. Sch. Dist. No. 1, 413 U.S. 189 (1973)..... 22

Local 28, Sheet Metal Workers' Int'l Ass'n v. EEOC, 478 U.S. 421 (1986)..... 18

McDaniel v. Barresi, 402 U.S. 39 (1971)..... 18, 21

McDuffy v. Sec'y of Executive Office of Educ., 615 N.E.2d 516 (Mass. 1993) 11

McFarland v. Jefferson County Pub. Schs., 330 F. Supp. 2d 834 (W.D. Ky. 2004) 19

New York Times Co. v. United States, 403 U.S. 713 (1971) 18

Parents Involved in Cmty. Schs. v. Seattle Sch. Dist., No. 1, 426 F.3d 1162 (9th Cir. 2005) 21

Plyler v. Doe, 457 U.S. 202 (1982) 10

Regents of Univ. of Calif. v. Bakke, 438 U.S. 265 (1978) 24

Rose v. Council for Better Educ., Inc., 790 S.W.2d 186 (Ky. 1989) 11

Seattle Sch. Dist. No. 1 v. State, 585 P.2d 71 (Wash. 1978) 11

Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1 (1971) ..... *passim*

United States v. Paradise, 480 U.S. 149 (1987) 18

Other Authorities

Timothy Garton Ash, *Islam in Europe*, N.Y. Rev. Books, Oct. 15, 2006, at 32 5

Zvi Bekerman & Nader Shhadi, *Palestinian-Jewish Bilingual Education in Israel: Its Influence on Cultural Identities and Its Impact on*

Intergroup Conflict, 24 J. Multilingual & Multicultural Dev. 473 (2003), *available at* http://www.handinhand12.org/media/Journal-Multilingual&Multicultural.pdf 5

Drake Bennett, *Hearts and Minds Drawn to Ballots Not Bombs; America's Muslim Community Shows Few Signs of the Radicalism Seen in Britain*, BOSTON GLOBE, Aug. 20, 2006, at D1 7

Jomills Henry Braddock III & James M. McPartland, *Social-Psychological Processes That Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation*, 19 J. Black Stud. 267 (1989) 13

Brief for the American Jewish Committee et al. as Amici Curiae Supporting Respondent, Regents of Univ. of Calif. v. Bakke, 438 U.S. 265 (1978) (No. 76-811), 1977 WL 188015 (Aug. 5, 1977) 24

Brief for the American Jewish Committee et al. as Amici Curiae Supporting Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241) & Gratz v. Bollinger, 538 U.S. 904 (2003) (No. 02-516), 2003 WL 536749 (Feb. 14, 2003) 24

Civil Rights Project, Harvard Univ., *The Impact of Racial and Ethnic Diversity on Educational Outcomes: Cambridge, MA School District* (2002) 14

Civil Rights Project, Harvard Univ., *The Impact of Racial and Ethnic Diversity on Educational Outcomes: Lynn, MA School District* (2002) 14

Cmty Cohesion Rev. Team, *Community Cohesion: A Report of the Independent Review Team* (2001), *available at* http://www.bradford2020.com/pride/links.html 6

Comm. on the Use of Volunteers in Schs., Nat'l Res. Council, *Volunteers in Public Schools* (Bernard Michael ed., 1990) 16

Robert L. Crain & Carol Sachs Weisman, *Discrimination, Personality, & Achievement: A Survey of Northern Blacks* (1972) 15

Robert L. Crain & Jack Strauss, *School Desegregation and Black Occupational Attainment: Results from a Long-term Experiment* (1985) 15

Farrukh Dhondy, *East Enders*, Wall St. J., Aug. 15, 2006, at A12 6

Susan E. Eaton & Christina Meldrum, *Broken Promises: Resegregation in Norfolk, Virginia, in Dismantling Desegregation: The Quiet Reversal of* Brown v. Board of Education (Gary Orfield & Susan E. Eaton eds., 1996) 16

Erica Frankenberg et al., *A Multiracial Society With Segregated Schools: Are We Losing the Dream?* (2003) 20

Philip H. Gordon, *On Assimilation and Economics, France Will Need New Models*, New Republic Online, Nov. 9, 2005, *available at* http://www.brookings.edu/views/op-ed/Gordon/20051109.htm 6

Maureen T. Hallinan & Stevens S. Smith, *The Effect of Classroom Composition on Students' Interracial Friendliness*, 48 Soc. Psychol. Q. 3 (1985)..... 12

Jytte Klausen, *Counterterrorism and the Integration of Islam in Europe*, 7 Watch On W. (2006), *available at* http://www.fpri.org/ww/0701.200607.klausen.integrationislameurope.html..... 5

Barry A. Kosmin et al., *American Religious Identification Survey 2001* (2001), *available at* http://www.gc.cuny.edu/faculty/research_studies/aris.pdf 4

Michel Kurlaender & John T. Yun, *Is Diversity a Compelling Education Interest? Evidence from Louisville, in Diversity Challenged: Evidence on the Impact of Affirmative Action* (Gary Orfield & Michel Kurlaender eds., 2001)..... 15

John R. Logan & Glenn Deane, The Muslim World in Metropolitan America (Aug. 15, 2003), http://mumford.albany.edu/census/BlackWhite/ReportPages/Muslims_in_Metro_America.pdf..... 7

Neil MacFarquhar, *Pakistanis Find U.S. an Easier Fit Than Britain*, N.Y. TIMES, Aug. 21, 2006, at A1 8

Claire McGlynn et al., *Moving Out of Conflict: The Contribution of Integrated Schools in Northern Ireland to Identity, Attitudes, Forgiveness, and Reconciliation*, 1 J. Peace Educ. 147 (2004), *available at* http://www.nicie.org/archive/publications/claire1.pdf. 4

Claire McGlynn, Integration for Reconciliation? The Impact of Integrated Schools in Northern Ireland (Sept. 11–13, 2003), http://www.nicie.org/archive/publications/Indiana%20paper.doc..... 5

Zakiyyah Muhammed, *Islamic Schools in the United States: Perspectives on Identity, Relevance, & Governance, in Muslims in the United States: Demography, Beliefs, Institutions* (Philippa Strum & Danielle Tarantolo eds., 2003), *available at* http://www.wilsoncenter.org/topics/pubs/DUSS_muslims.pdf..... 8

Oldham Indep. Rev., *One Oldham One Future* (2001), *available at* http://www.bradford2020.com/pride/links.html 7

Myron Orfield & Thomas Luce, Minority Suburbanization & Racial Change 10 (May 6–7 2005), http://www.irpumn.org/website/conference/materials/MinoritySubn_050605wMAPS.pdf..... 16

Sir Herman Ouseley, *Community Pride, Not Prejudice: Making Diversity Work in Bradford* (2001), *available at* http://www.bradford2020.com/pride/report.pdf 6

John A. Powell, *An "Integrated" Theory of Integrated Education* (2002), *available at* http://www.civilrightsproject.harvard.edu/research/reseg02/powell.pdf 13

Report of the Burnley Task Force (2001), *available at* http://www.bradford2020.com/pride/links.html 7

Olivier Roy, *Globalized Islam: The Search for a New Ummah* (2004) 8

Janet Ward Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary School Students, in Handbook of Research on Multi-Cultural Education* (James A. Banks & Cherry A. McGee Banks eds., 1995) 12

Selcuk Sirin & Michelle Fine, *Hyphenated Selves: Muslim American Youth Negotiating Their Identities* (forthcoming fall 2007) 7

Amy Stuart Wells et al., *How Desegregation Changed Us: The Effects of Racially Mixed Schools on Students and Society* (2005), *available at* http://cms.tc.columbia.edu/i/a/782_ASWells041504.pdf. 13

Lawrence Wright, *For the New Theorists of Jihad, Al Qaeda Is Just the Beginning*, NEW YORKER, Sept. 11, 2006, at 48 8

STATEMENT OF INTEREST OF *AMICI CURIAE*[1]

Amici curiae are organizations and individuals affiliated with a diverse group of religious communities in the United States. The names and individual statements of the *Amici* are contained in the Appendix to this brief. *Amici* historically have been concerned with ensuring that our society is strengthened, rather than fractured, by our racial, religious, ethnic and other differences. We believe that integrated public schools are our foremost asset in educating our children to become full participants in our increasingly diverse country and to lead lives that fulfill the motto on the Great Seal of the United States – *E pluribus unum* – out of many, one. *Amici* respectfully submit this brief to the Court in order to highlight the benefits that diversity and integrated schools can provide to elementary and secondary school students and in order to place these cases in a historical perspective.

SUMMARY OF ARGUMENT

The United States is a diverse country, and our integration of citizens belonging to different racial, religious, and ethnic groups is vital to ensuring we move forward as a unified community rather than break down along lines of division. As religious organizations, *Amici* have seen the strength of the United States in assimilating people of many different religious backgrounds into a cohesive American society. The experience of other developed nations today

---

[1] No counsel for a party authored this brief in whole or in part, and no person or entity other than *Amici* and their counsel made any monetary contribution toward the preparation and submission of this brief. Pursuant to Rule 37.3, the parties have given general consent to the filing of *amicus* briefs.

presents an ominous contrast. Religious minorities in many nations are alienated from their fellow citizens, living in separate neighborhoods and attending separate schools. Suspicion and resentment in some cases have even turned to violence as largely separate societies exist next to each other but not connected. One remedy recommended for these fractured communities is what *Amici* support in this case – integrated schools where students of all races and religions can develop the tolerance, respect, and understanding necessary to thrive in a diverse society and recognize their common destiny.

These goals are not beyond the scope or the mission of education. Instead, this Court and state appellate courts around the country have recognized that one of the primary goals of education is to enable students to become productive, informed, and active citizens. Substantial social-science research supports the common-sense conclusion that integrated schools better fulfill this mission, educating students to become full participants in our increasingly diverse county by recognizing that our differences can be our greatest asset. Integration of schools therefore serves the compelling interest of furnishing students with diverse, integrated learning environments that provide them with a superior education and better prepare them for their civic duties.

Court decisions also have recognized that integrated schools offer significant benefits. In *Brown v. Board of Education*, 347 U.S. 483, 494-95 (1954) ("*Brown I*"), this Court declared that segregated schools are unconstitutional because "[s]eparate educational facilities are inherently unequal." Since that landmark case, federal courts have

ordered the desegregation of formerly segregated school districts in processes that involve consideration of race in student assignment. This remedy of desegregation responds to the inferior education this Court identified in *Brown I* as a harm caused by segregation and recognizes that integrated schools offer a learning environment that promotes cross-cultural understanding and civic engagement.

Race-conscious programs that serve compelling state interests, such as integrated schools, must also be narrowly tailored to further that interest. This Court historically has calibrated the guideposts for determining whether a government program is narrowly tailored based on the context of the program. The lower courts evaluated the assignment systems at issue here using the criteria identified by this Court in *Grutter v. Bollinger*, 539 U.S. 306 (2003), for affirmative action admissions programs in higher education. But the assignment programs at issue here are different from such affirmative action admissions programs. In the higher education context, schools evaluate the qualifications of prospective students to determine which students merit admission. Under *Grutter*, the schools may consider race among their criteria but may not impose quotas. In the context of the Louisville and Seattle voluntary integration programs, all students are assigned to a school and there are no merit-based assignments in the challenged aspects of their programs. Significantly, no group is particularly "favored," and no student is denied admission to school. Accordingly, *Amici* respectfully suggest that the programs at issue here do not raise the same concerns that underlie the guidelines this Court identified in *Grutter* and that the Court should apply the narrow tailoring test bearing in mind that these programs raise fewer fairness concerns

than programs that prefer one specific group or another in evaluating qualifications for limited-access programs.

ARGUMENT

I. The Assimilation of Minorities Through Integrated Schools Helps Avoid the Alienation of Religious Minorities That Has Resulted in Unrest in Other Nations

The United States is a religiously-diverse country. According to a recent survey, there are more than 50 religions with 25,000 or more adherents in our nation. Barry A. Kosmin et al., *American Religious Identification Survey 2001* 12-13 (2001), *available at* http://www.gc.cuny.edu/faculty/research_studies/aris.pdf. While the focus of diversity in education has often been on racial diversity, *Amici* recognize that religious diversity in our public schools is also critical to the goal of a unified country, as a comparison of our experience with that of the segregated experience of religious minorities in other developed countries demonstrates.

Social-science research points to the value of integrated schools in fostering a sense of community and common destiny, even in communities that have experienced long, violent conflicts along religious lines. For example, a review of research on integrated education in Northern Ireland concluded that "integrated education holds great potential for building social cohesion." *See* Claire McGlynn et al., *Moving Out of Conflict: The Contribution of Integrated Schools in Northern Ireland to Identity, Attitudes, Forgiveness, and Reconciliation*, 1 J. Peace Educ. 147, 156-

59 (2004), *available at* http://www.nicie.org/archive/publications/claire1.pdf. One long-term study of integrated school graduates concluded that integrated education significantly bolstered students' mixed friendships and made them feel "more secure in a mixed working environment." Claire McGlynn, Integration for Reconciliation? The Impact of Integrated Schools in Northern Ireland 2 (Sept. 11–13, 2003), http://www.nicie.org/archive/publications/Indiana%20paper.doc. Similarly, a study in Israel comparing students from a Palestinian-Jewish integrated school with students from segregated schools concluded that the integrated school has shown success in "helping to reduce prejudice and alleviating conflict" and that students from the integrated school showed a deeper understanding of one another's cultures than did students from the segregated schools. Zvi Bekerman & Nader Shhadi, *Palestinian-Jewish Bilingual Education in Israel: Its Influence on Cultural Identities and Its Impact on Intergroup Conflict*, 24 J. Multilingual & Multicultural Dev. 473, 481 (2003), *available at* http://www.handinhand12.org/media/Journal-Multilingual&Multicultural.pdf.

In other communities, the segregated education system has contributed to unrest along racial or religious lines. In much of Western Europe, for example, the Muslim population is highly segregated and isolated. *See* Jytte Klausen, *Counterterrorism and the Integration of Islam in Europe*, 7 Watch On W. (2006), *available at* http://www.fpri.org/ww/0701.200607.klausen.integrationislameurope.html ("Large numbers [of European Muslims] live in highly segregated neighborhoods . . . and send their children to sub-par 'minority majority' schools."); Timothy Garton Ash, *Islam in Europe*, N.Y. Rev. Books, Oct. 15, 2006, at 32

("[T]he profound alienation of many Muslims . . . is one of the most vexing problems facing the continent today."). In the absence of integration programs, residential segregation and school segregation go hand in hand.

> In perhaps 50 towns [in northern England], the enclosed communities [of Muslims] formed their own inward-looking societies . . . . The community's one possible contact with the outside world was Britain's compulsory schooling, but this was subverted by a policy that favored neighborhood schools and restricted dispersal. This resulted in majority, sometimes 100%, Muslim school populations.

Farrukh Dhondy, *East Enders*, Wall St. J., Aug. 15, 2006, at A12. *See also* Philip H. Gordon, *On Assimilation and Economics, France Will Need New Models*, New Republic Online, Nov. 9, 2005, *available at* http://www.brookings.edu/views/op-ed/Gordon/20051109.htm ("[A] key part of the problem is France's failure to integrate the children of Arab immigrants.").

The result, according to reports commissioned to address riots by religious minorities in England, is tension and violence in communities fragmented along racial, cultural, and religious lines. Sir Herman Ouseley, *Community Pride, Not Prejudice: Making Diversity Work in Bradford* 1, 6, 46 (2001), *available at* http://www.bradford2020.com/pride/report.pdf. *See also* Cmty. Cohesion Rev. Team, *Community Cohesion: A Report of the Independent Review Team* 34-35 (2001) (finding that a "significant problem is posed by existing and future mono-cultural

schools"); Oldham Indep. Rev., *One Oldham One Future* 23, 26 (2001) (warning that segregation of schools "is a matter of deep concern, since it lays the foundation for lack of contact with and understanding of people from different ethnic groups. This in turn invites misconceptions and social divides."); *Report of the Burnley Task Force* 49 (2001) ("[E]ducational segregation clearly has an impact on good community relations."). (Links to the Community Cohesion, Oldham, and Burnley reports are available at http://www.bradford2020.com/pride/links.html.). These reports recommend integration of schools to reverse the problems that isolation and alienation have fostered.

Fortunately, up to now, "Muslims in America are unique compared to European Muslims in terms of their integration into the mainstream society." Selcuk Sirin & Michelle Fine, *Hyphenated Selves: Muslim American Youth Negotiating Their Identities* (forthcoming fall 2007) (manuscript at 25, on file with counsel); *see also* Drake Bennett, *Hearts and Minds Drawn to Ballots Not Bombs; America's Muslim Community Shows Few Signs of the Radicalism Seen in Britain*, BOSTON GLOBE, Aug. 20, 2006, at D1 ("American Muslims, by and large, are . . . better integrated into American society than their European counterparts."). While Census data does not include information on religion, an analysis of the data shows that on average, Americans who were born in or whose ancestors came from predominantly Muslim countries live in neighborhoods in which 4.5 percent of their neighbors also have ancestors from predominantly Muslim countries. John R. Logan & Glenn Deane, The Muslim World in Metropolitan America 5-7 (Aug. 15, 2003), http://mumford.albany.edu/census/BlackWhite/ReportPages/Muslims_in_

Metro_America.pdf. *See also* Olivier Roy, *Globalized Islam: The Search for a New Ummah* 100 (2004) (explaining that Muslims "tend to live in more or less 'ethnic' neighborhoods in Europe, but in the United States are more scattered"). Due to their residential integration, Muslim students are generally well integrated into American public schools, as only a small fraction of these students attend private Muslim schools. *See* Zakiyyah Muhammed, *Islamic Schools in the United States: Perspectives on Identity, Relevance, & Governance, in Muslims in the United States: Demography, Beliefs, Institutions* 107 (Philippa Strum & Danielle Tarantolo eds., 2003), *available at* http://www.wilsoncenter.org/topics/pubs/DUSS_muslims.pdf. This greater integration has helped the United States avoid some of the problems experienced in Europe.[2] *See, e.g.*, Lawrence Wright, *For the New Theorists of Jihad, Al Qaeda Is Just the Beginning*, NEW YORKER, Sept. 11, 2006, at 48, 58 (explaining that better integration of American Muslims has contributed to avoiding problems experienced by European countries); Neil MacFarquhar, *Pakistanis Find U.S. an Easier Fit Than Britain*, N.Y. TIMES, Aug. 21, 2006, at A1 (reporting that Pakistani Muslim immigrants in the United States are

---

[2] *Amici* recognize that comparisons to other countries are imperfect because each country has a unique history and educational system. The examples and studies cited above show that across these different circumstances, integrated schools have fostered increased connections by religious minorities to other social groups and a shared commitment by all groups to the community as a whole, while the lack of integrated schools has too often coincided with an unfortunate breakdown of the unified community. *Amici* likewise recognize that many parents seek to offer their children an educational experience that incorporates parochial religious instruction and values. Their right to do so is entirely compatible with providing other students with the opportunity to attend integrated schools.

integrating more successfully than those in Britain, and that this integration serves as a bulwark against extremist ideology).

While the examples cited above deal with integration and alienation on religious rather than racial grounds, the principle remains the same: An integrated school system promotes a spirit of shared community and increases civic participation. Religious beliefs are deeply-held values that have contributed to some of the greatest leaders and greatest developments in world history. Unfortunately, this history also includes conflicts that resulted when members of different religious groups have failed to see the common ground they shared and to understand one another as human beings. *Amici* respectfully submit that integrated public schools provide a necessary forum where children of different religious, racial, and ethnic backgrounds can have the interactions that contribute to greater understanding and community.

II. Integrated Schools Serve the Compelling State Interest of Providing a Superior Education by Instilling Democratic Values and Preparing Schoolchildren for a Diverse Workforce and Society

Civic education is one of the most important functions of our schools. This Court has long recognized that public elementary and secondary schools do much more than train children in "the three Rs" – reading, 'riting, and 'rithmetic. As this Court explained in *Brown I*, public elementary and secondary schools serve as the principal civic instrument for preserving our democratic society by providing students the foundation of good citizenship and the

ability to adjust normally to their ever-changing environment:

> Today, education is perhaps the most important function of state and local governments. . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

347 U.S. at 493. Nearly three decades later, in *Plyler v. Doe*, this Court reiterated its special concern with the centrality of public education in maintaining our democratic system of government, recognizing public schooling as "a most vital civic institution for the preservation of a democratic system of government, and as the primary vehicle for transmitting the values on which our society rests." 457 U.S. 202, 221 (1982) (internal quotation marks and citations omitted).

Like this Court, the highest courts of many states have explained that the education clauses in their state constitutions require schools to teach students to become good citizens. In *Rose v. Council for Better Education, Inc.*, the Supreme Court of Kentucky concluded that education must, among other things, provide a "sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation." 790 S.W.2d 186, 212 (Ky.

1989). Similarly, the Supreme Court of Washington explained that the state's "paramount duty" goes beyond "mere reading, writing, and arithmetic" and instead "embraces broad educational opportunities needed in the contemporary setting to equip our children for their role as citizens." *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 94 (Wash. 1978); *see also Campaign for Fiscal Equity, Inc. v. State*, 655 N.E.2d 661, 666 (N.Y. 1995) (holding that New York constitution entitles all students to education consisting of "the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury"); *McDuffy v. Sec'y of Executive Office of Educ.*, 615 N.E.2d 516, 548 (Mass. 1993) (holding that Massachusetts constitution entitles all students to an education that "prepare[s] them to participate as free citizens of a free State to meet the needs and interests of a republican government, namely the Commonwealth of Massachusetts").

These decisions recognize that it is a compelling state interest to provide the education students must obtain in order to become productive citizens, which includes developing an understanding of racial and religious differences as well as an appreciation of those differences. Social-science research demonstrates that integrated education furthers this compelling interest.

A. Exposure to Diverse Schoolmates Fosters Tolerance and Open-Mindedness and Helps Students Move Beyond Stereotypes

As this Court has long recognized, schools play an important role in teaching Americans how "to live in a

pluralistic society," *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 16 (1971), which in today's diverse America necessarily entails cross-racial understanding and the breaking down of racial stereotypes. *Grutter*, 539 U.S. at 330 (stating that these benefits from diverse student bodies are "important" and "laudable"). Social-science research demonstrates that integrated elementary and secondary education furthers this goal not only by promoting tolerance, respect, and understanding among students of different races, but also by encouraging cross-racial friendships and collaboration between students in school and, years later, in their workplaces.

Research demonstrates that students in integrated schools have more positive attitudes toward different ethnic and racial groups. *See, e.g.*, Janet Ward Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary School Students, in Handbook of Research on Multi-Cultural Education* 597, 610 (James A. Banks & Cherry A. McGee Banks eds., 1995) (finding white students enrolled in integrated high schools had more positive attitudes toward African-American and Mexican-American students and African-American students enrolled in schools with higher numbers of white students had more positive attitudes toward white students). Not surprisingly, students in integrated schools develop far more cross-racial friendships, *see, e.g.*, Maureen T. Hallinan & Stevens S. Smith, *The Effect of Classroom Composition on Students' Interracial Friendliness*, 48 Soc. Psychol. Q. 3, 13-14 (1985), and are more prepared for diverse work environments. As one scholar concluded, "blacks who had a desegregated school experience[] tend to evaluate white co-workers and employers more positively than blacks with segregated

educational backgrounds." John A. Powell, *An "Integrated" Theory of Integrated Education* 11 (2002), *available at* http://www.civilrightsproject.harvard.edu/research/reseg02/powell.pdf; *see also* Jomills Henry Braddock III & James M. McPartland, *Social-Psychological Processes That Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation*, 19 J. Black Stud. 267, 283-84 (1989) (concluding that African-Americans who attended majority African-American high schools perceive coworkers in majority-white settings as less friendly than do their counterparts who attended more integrated high schools).

One 1999 study of students who had attended desegregated schools offers a clear illustration of how integration better prepares students to deal with a diverse, multicultural environment. The study found that white students who attended desegregated high schools reported having gained a greater appreciation for other cultures and a reduced likelihood of reverting to stereotypes. Amy Stuart Wells et al., *How Desegregation Changed Us: The Effects of Racially Mixed Schools on Students and Society* 16 (2005), *available at* http://cms.tc.columbia.edu/i/a/782_ASWells041504.pdf. In contrast, however, their white spouses and friends "who did not attend diverse schools . . . said [that they] are often frightened in racially diverse and predominantly black or Latino settings." *Id.* The study similarly found that minority students from these integrated schools believed that they were better prepared to function in predominantly white environments and handle any racial prejudice they may encounter. *Id.* These students also indicated that "they were more at ease in a white-dominated society because they had learned that not all whites were racist." *Id.; see also* Civil Rights Project, Harvard Univ., *The*

Impact of Racial and Ethnic Diversity on Educational Outcomes: Lynn, MA School District 7 (2002) (finding that over 89 percent of students in integrated school district believed that diversity in high school population prepared them to work in a diverse job setting); Civil Rights Project, Harvard Univ., *The Impact of Racial and Ethnic Diversity on Educational Outcomes: Cambridge, MA School District* 6-7 (2002) (finding that over 90 percent of high school students attending a racially-diverse high school believed that the diverse population prepared them to work in a diverse job environment).

B. Integrated Schools Enhance Students' and Parents' Civic Involvement and Foster a United, Rather Than Divided, Community and Country

In addition to teaching values and skills that are necessary for cross-racial and cross-religious cooperation, integrated education promotes civic involvement. This Court explained even prior to *Brown I* that our public schools are "at once the symbol of our democracy and the most pervasive means for promoting our common destiny." *Illinois* ex rel. *McCollum v. Bd. of Educ.*, 333 U.S. 203, 231 (1948). Therefore, "if the dream of one Nation, indivisible, is to be realized," our schools must help ensure the "[e]ffective participation by members of all racial and ethnic groups in the civic life of our nation." *Grutter*, 539 U.S. at 332. Social-science research demonstrates that integrated education offers significant promise in achieving this dream: Integrated educational settings encourage enhanced civic participation by students and parents alike while cultivating a spirit of shared community.

Students of all races who attend desegregated schools report an increased interest in volunteering and assuming leadership roles within their communities as well as participating in elections. Michel Kurlaender & John T. Yun, *Is Diversity a Compelling Education Interest? Evidence from Louisville, in Diversity Challenged: Evidence on the Impact of Affirmative Action* 81, 130-131 (Gary Orfield & Michel Kurlaender eds., 2001) (reporting survey of over 1,100 Jefferson County, Kentucky high school students and finding that white, African-American, and other minority students all reported increased or greatly increased interest in these activities). Long-term studies of students who attended integrated public schools also demonstrate these students' greater likelihood of living in integrated neighborhoods as adults, thereby revealing a desire to live in communities that better reflect the diversity of our country as a whole. *See* Robert L. Crain & Carol Sachs Weisman, *Discrimination, Personality, & Achievement: A Survey of Northern Blacks* 166-67 (1972) (studying black and white adults in Milwaukee, Wisconsin who attended integrated schools); Robert L. Crain & Jack Strauss, *School Desegregation and Black Occupational Attainment: Results from a Long-term Experiment* 18-19 (1985) (reporting results of 15-year study of students of color and their parents in Hartford, Connecticut, some of whom transferred to suburban schools under a voluntary desegregation plan).

Research also shows that integrated elementary and secondary education encourages parents' community involvement as well. For example, the National Research Council found that desegregated schools have higher rates of volunteerism as compared with schools in which minority enrollment exceeds fifty percent. *See* Comm. on the Use of

Volunteers in Schs., Nat'l Res. Council, *Volunteers in Public Schools* 15-16 (Bernard Michael ed. 1990); *see also* Susan E. Eaton & Christina Meldrum, *Broken Promises: Resegregation in Norfolk, Virginia, in Dismantling Desegregation: The Quiet Reversal of* Brown v. Board of Education 136-37 (Gary Orfield & Susan E. Eaton eds., 1996) (reporting that survey of schools conducted by the National Center for Education Statistics concluded that the highest number of parent volunteers "came not in all-white schools, but in schools that were between 5 percent and 50 percent nonwhite"). Conversely, a study of the Norfolk, Virginia school district – the first district in the nation to end its desegregation program among elementary school students – found that within six years parental involvement declined in more than half of the elementary schools that had become almost exclusively African-American. *Id.* at 135 (measuring parental involvement in terms of PTA membership). Additionally, metropolitan areas with integrated school systems also have increased residential integration, as white households will continue to live in racially integrated neighborhoods, even as the minority population approaches or exceeds fifty percent, "if they are confident that their children will continue to attend integrated schools even if the racial mix of the neighborhood changes." Myron Orfield & Thomas Luce, Minority Suburbanization & Racial Change 10 (May 6–7 2005), http://www.irpumn.org/website/conference/materials/MinoritySubn_050605wMAPS.pdf.

* * *

These studies about the positive effects of integration confirm what *Amici* strongly believe based on their own

experiences – integration is vital to ensuring that we are one nation, under God, indivisible, with liberty and justice for all.

III. While "Separate But Equal" Has Been Condemned as Unconstitutional for More Than Half a Century, Courts Have Long Recognized the Converse – Improving Education Through Integration of Students – as a Compelling State Interest

The compelling interest in promoting integrated, racially-diverse student bodies in elementary and secondary schools is not merely a recent construct of social science. For more than 50 years, the jurisprudence of this Court has relied upon and necessarily recognized this compelling interest. Local school districts cannot be running afoul of the Constitution when they are furthering the same compelling interest that underlies the remedies ordered by federal courts and approved by this Court.

A. The Remedy of Desegregation Rests on the Compelling Interest of Integrating Schools

Brown I established that "[s]eparate educational facilities are inherently unequal." 347 U.S. at 495. Since this Court's decision in *Brown v. Board of Education*, 349 U.S. 294 (1955) ("*Brown II*"), federal courts have ordered school districts to remedy unconstitutional segregation by integrating their schools. These orders often explicitly contemplated assignment of students within a school district based largely, if not solely, on race. *See, e.g., Swann*, 402 U.S. at 8-10 (describing district court order requiring school assignment on the basis of race); *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 455 n.3, 468 (1979) (affirming district

court order requiring all schools in district to be brought roughly within proportionate racial balance). In fact, this Court has recognized that desegregation orders "almost invariably require that students be assigned 'differently because of their race.'" *McDaniel v. Barresi*, 402 U.S. 39, 41 (1971) (citation omitted).

Just as the actions of the executive and legislative branches are subject to constitutional scrutiny, so too are the orders of the judiciary. *See, e.g., New York Times Co. v. United States*, 403 U.S. 713, 719 (1971) (Black, J., concurring) (recognizing that court orders that function as unlawful prior restraints are prohibited by the First Amendment and therefore unconstitutional). The Court has recognized this principle in the context of court-ordered remedies for racial discrimination, in which it has applied strict scrutiny while leaving open the question of the appropriate standard of review. *See, e.g., United States v. Paradise*, 480 U.S. 149, 166-67 (1987); *Local 28, Sheet Metal Workers' Int'l Ass'n v. EEOC*, 478 U.S. 421, 480 (1986). The compelling interest underlying the integration of school districts is the superior education provided by integrated schools. *Cf. Freeman v. Pitts*, 503 U.S. 467, 494 (1992) (holding that achieving racial balance for its own sake is unconstitutional). The remedy of integration furthers a compelling state interest because, as this Court recognized in *Brown I*, segregated schools are unequal and provide an inferior education. *Brown I*, 347 U.S. at 493-94. As segregated schools provide an inferior education and are inherently unconstitutional, the converse must necessarily be true: Integrated schools educate students better, and their creation furthers a compelling interest. Indeed, this compelling interest underlies court-ordered desegregation.

B. School Districts May Voluntarily Undertake Measures to Further the Compelling Interest of Improving Education by Integrating Their Schools

School districts must be free to further the same compelling interests that previous court orders seek to further. As this Court recognized in *Swann*, school districts have at least as much authority as courts to act in the area of elementary and secondary education. 402 U.S. at 16 ("Remedial judicial authority does not put judges automatically in the shoes of school authorities *whose powers are plenary*.") (emphasis added). If courts have the authority to further a compelling interest by ordering the integration of schools, then school districts must necessarily have as much, if not more, authority to do the same. As the District Court in *McFarland v. Jefferson County Public Schools* explained:

> In 1975, an integrated school system and all the benefits it promised were thought so essential that various federal courts required [Louisville] to create and maintain it. . . . It would seem rather odd that the concepts of equal protection, local control and limited deference are now only one-way streets to a particular educational policy, virtually prohibiting the voluntary continuation of policies once required by law.

330 F. Supp. 2d 834, 851 (W.D. Ky. 2004).

This conclusion is all the more compelling when looking at school districts that had been under court order to

desegregate. There is no logical reason why policies and practices so compelling that they are required by court order suddenly become unconstitutional the very moment the court order is lifted. The state's interest in maintaining an integrated school is no less compelling than its interest in first achieving one. School districts therefore must be free to continue to voluntarily implement integration plans after the termination of court orders so as to preserve the benefits of integration obtained through those orders. *Cf. Bd. of Educ. v. Dowell*, 498 U.S. 237, 251 (1991) (Marshall, J., dissenting) (recognizing the danger of "the threatened reemergence of one-race schools" in the wake of termination of a desegregation order); Erica Frankenberg et al., *A Multiracial Society With Segregated Schools: Are We Losing the Dream?* 37 (2003) (concluding that the proportion of black students in majority-white schools has decreased by 13 percentage points, or nearly 30 percent, since districts in the South have achieved unitary status).

This Court has expressly recognized that it is within the discretion of school districts to offer a better education through voluntary integration. In *Swann*, this Court recognized that:

> [s]chool authorities are traditionally charged with broad power to formulate and implement educational policy and might well conclude . . . that in order to prepare students to live in a pluralistic society each school should have a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole. To do this as an educational policy is

> within the broad discretionary powers of school authorities.

402 U.S. at 16. In *McDaniel v. Barresi*, this Court upheld a school district's voluntary integration plan that employed "geographic attendance zones drawn to achieve greater racial balance" even though there was no court order compelling desegregation. 402 U.S. at 40. The rationale for why voluntary integration serves a compelling state interest even where prior segregation may have been *de facto* rather than *de jure* is simple: Whether or not intentional discrimination caused the segregation of schools, the resultant harm is largely the same.[3] Indeed, in light of this Court's precedents, the principle that states have a compelling interest in providing better education through integrated schools is so apparent that then-Justices Rehnquist and Powell, both of whom dissented from decisions they believed extended the reach of integration too far,[4] had little doubt that school

---

[3] The dissent in the Ninth Circuit claimed that this Court has stated that "only the remediation of *de jure* segregation justifie[s] the use of racial classifications." *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist., No. 1*, 426 F.3d 1162, 1197 (9th Cir. 2005) (Bea, J., dissenting). This claim ignores the decisions cited above and confuses the power of the judicial branch with that of the other branches of government. The requirement of a finding of *de jure* segregation prior to a court order compelling desegregation goes to the power of the court to act, not to the government interest at stake. *See Swann*, 402 U.S. at 16 ("[J]udicial powers may be exercised only on the basis of a constitutional violation."). As this Court explained in *Grutter*, "we have never held that the only governmental use of race that can survive strict scrutiny is remedying past discrimination." 539 U.S. at 328.

[4] *See, e.g., Penick*, 443 U.S. at 479 (Rehnquist, J., joined by Powell, J., dissenting from opinion approving broad district court desegregation

districts may properly take voluntary measures to integrate their schools beyond what is required by the Constitution. *See Bustop, Inc. v. Bd. of Educ.*, 439 U.S. 1380, 1383 (1978) (Rehnquist, Circuit Justice) (stating that that he had "very little doubt" that state authorities were permitted by the Constitution to voluntarily implement school integration plans); *Keyes v. Sch. Dist. No. 1*, 413 U.S. 189, 242 (1973) (Powell, J., concurring in part and dissenting in part) ("Nothing in this opinion is meant to discourage school boards from exceeding minimal constitutional standards in promoting the values of an integrated school experience."). A decision by this Court to the contrary would call into question more than a half-century of equal protection jurisprudence.

IV. VOLUNTARY INTEGRATION PROGRAMS IN THE PUBLIC SCHOOL SYSTEM CONTEXT DO NOT RAISE THE SAME NARROW TAILORING CONCERNS AS AFFIRMATIVE ACTION PROGRAMS

This Court has applied strict scrutiny to race-based classifications in order "to distinguish legitimate from illegitimate uses of race in government decisionmaking." *Adarand Constr., Inc. v. Peña*, 515 U.S. 200, 228 (1995). In *Grutter*, the Court identified criteria by which to measure whether admissions programs for higher education were narrowly tailored to the goal of achieving student-body

---

order); *Delaware State Bd. of Educ. v. Evans*, 446 U.S. 923, 927 (1980) (Rehnquist, J., joined by Powell, J., dissenting from denial of certiorari) (advocating review of district court desegregation order and expressing "substantial doubt" that remedy ordered by district court was appropriate).

diversity. 539 U.S. at 334. The Court did not suggest that these criteria would apply to all race-conscious programs. Instead, the Court reaffirmed that "strict scrutiny is designed to provide a framework for carefully examining the importance and sincerity of the reasons advanced by the governmental decisionmaker for the use of race *in that particular context*," *id.* at 327 (emphasis added),[5] and the Court explained that it had specifically "calibrated" the narrow-tailoring inquiry to "fit the distinct issues raised by the use of race to achieve student-body diversity in public higher education." *Id.* at 334.

Amici respectfully submit that the assignment of students to schools within a school district does not raise the same degree of narrow-tailoring concern as the use of race to achieve student-body diversity in higher education.[6] *Grutter*

---

[5] *Accord Adarand*, 515 U.S. at 228 ("[S]trict scrutiny *does* take 'relevant differences' into account – indeed, that is its fundamental purpose. The point of carefully examining the interest asserted by the government in support of a racial classification, and the evidence offered to show that the classification is needed, is precisely to distinguish legitimate from illegitimate uses of race in government decisionmaking.").

[6] Within the interfaith group of *Amici* submitting this brief are groups representing Americans whose participation in higher education was limited by discriminatory quotas in earlier decades. For example, the use of quotas to limit the admission of Jewish and Catholic students to colleges and universities during the early part of the twentieth century is well documented. *See, e.g.*, Jerome Karabel, *The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale, and Princeton* 130-31 (2005) (describing use of quotas to limit Jewish student admission); Marcia Graham Synott, *The Half-Opened Door: Discrimination at Harvard, Yale, and Princeton, 1900–1970* 17-20 (1979) (describing the use of quotas to limit Jewish and Catholic student selection). As a result of this pernicious discrimination, some

addressed an affirmative action program that included preferences based on race in the context of evaluating the qualifications of applicants to a selective graduate school program that offered admission only to a limited group of applicants. The voluntary integration programs of the Louisville and Seattle school districts do not involve access to selective programs or preferences based on race; instead, these voluntary integration programs involve assignment of students within a system, based primarily on the preferences of the students and their parents. All students have an opportunity to choose among schools and all receive an

---

Amici have opposed the use of rigid quotas in admissions programs for higher education but have supported affirmative action and the use of goals in assembling diverse student bodies. *See, e.g.*, Brief for the American Jewish Committee et al. as Amici Curiae Supporting Respondent, Regents of Univ. of Calif. v. Bakke, 438 U.S. 265 (1978) (No. 76-811), 1977 WL 188015, at *44-45 (Aug. 5, 1977) (supporting the use of methods other than quotas to increase minority enrollment); Brief for the American Jewish Committee et al. as Amici Curiae Supporting Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241) & Gratz v. Bollinger, 538 U.S. 904 (2003) (No. 02-516), 2003 WL 536749, at *2 (Feb. 14, 2003) ("The historic Jewish opposition to quotas does not mandate rejection of carefully tailored goals."). This Court has recognized the same distinctions and found quotas unconstitutional while approving narrowly-tailored admissions programs that include flexible goals for participation of underrepresented minorities. *Compare Regents of Univ. of Calif. v. Bakke*, 438 U.S. 265, 295-98, 316-18 (1978) (invalidating the reservation of a prescribed number of seats for minority applicants while sanctioning an "awareness of the necessity of including more than a token number of black students") *with Grutter*, 539 U.S. at 334-39 (upholding a university admissions program designed to attain a critical mass of underrepresented minority students). All of the *Amici* submitting this brief agree that the Louisville and Seattle programs before the Court fall well on the side of permissible consideration of race in creating diverse learning environments.

assignment, regardless of qualifications. *Amici* respectfully suggest that the Court consider these substantial differences in calibrating its narrow-tailoring test because all students can benefit from integrated schools and the compelling interest of providing an integrated education never sunsets.

CONCLUSION

For the reasons herein, and those set forth by Respondents, *Amici curiae* urge this Court to uphold the decisions below.

October 10, 2006

Respectfully submitted,

WILLIAM T. RUSSELL, JR.*
DANIEL H. TABAK
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, New York 10017
(212) 455-2000

* *Counsel of Record*

Counsel for Amici Curiae

NAMES AND INDIVIDUAL STATEMENTS OF INTEREST OF *AMICI CURIAE*

AMERICAN ISLAMIC FORUM FOR DEMOCRACY

The American Islamic Forum for Democracy ("AIFD") is a not-for-profit, public policy research and human relations organization founded in 2003. AIFD was formed in order to serve as a vehicle for promoting the complete compatibility of America's founding Constitutional principles and the very personal faith of Islam practiced by Muslims. AIFD's formative ideology is based upon the central American principle which separates religion from government while promoting pluralism, equality, and the free expression of all faiths. These principles when promoted by American Muslims can serve as the most effective counter and ideological alternative to the dangers posed by Islamism or "political Islam."

AIFD joins in this brief in keeping with our belief that America's pluralism is a product of both its founding principles and its diverse society. America's principled and tangible diversity results from both opportunity and choice. AIFD believes that localities should be unencumbered by federal restrictions in their efforts to promote pluralism, integration, and diversity. Localities should have the freedom to give students and their parents a fair choice which allows them voluntarily to participate in schools which are more representative of the diverse religious mosaic of the United States.

AMERICAN JEWISH COMMITTEE

The American Jewish Committee ("AJC") is a national, not-for-profit, human relations organization, founded in 1906 for

the purpose of protecting the civil and religious rights of Jews. It is the conviction of AJC that those rights will be secure only when the rights of all Americans are equally secure. AJC maintains 32 regional offices in major cities nationwide and has more than 150,000 members and supporters. In furtherance of its goal to strengthen the basic principles of pluralism around the world and at home as the best defense against anti-Semitism and other forms of bigotry, AJC has actively advocated for integration in American education. For example, AJC sponsored the study demonstrating the psychological impact of prejudice and discrimination upon children cited by this Court in its landmark *Brown v. Board of Education* decision. AJC also filed an amicus brief with this Court in 2003 in support of the University of Michigan's efforts to achieve diversity in its student bodies. We file in the cases presently before the Court out of the continuing belief that integration not only provides all students with a richer educational experience, but also prepares them for participation in our pluralistic democracy.

ANDOVER NEWTON THEOLOGICAL SCHOOL

Andover Newton is the oldest graduate theological school in the United States. Founded in 1807, the school has been a pioneer in training congregational leaders, creating the model that is now the standard for almost every seminary in the country. In recent years Andover Newton moved to share its campus with Hebrew College and Rabbinical School. Together the two schools have created a unique laboratory of interreligious education and community. Central to this relationship is a firm belief in the necessity of nurturing religious "border crossing" skills for the new generations of moral and spiritual leaders in our nation and the world. We join this *amici curiae* brief because we believe that only

through meaningful and regular engagement with the "other" will children have the opportunity to learn the insights and skills that will enable them to help build a more tolerant and just world.

CENTER FOR ISLAMIC PLURALISM

The Center for Islamic Pluralism ("CIP") is a tax-exempt charity that promotes moderate Islam and education about moderate Islam in the U.S. and globally. CIP recognizes that the complicated and difficult history of the American civil rights movement, as well as that of American religious diversity, have involved significant encounters with Islamic and Islamic-influenced traditions and conceptions. CIP is committed to full equality in the U.S. and supports the maintenance of essential civil rights law and precedent in public education and other public institutions, and the advancement and broadening of civil rights safeguards.

FATHER ROBERT F. DRINAN

Father Robert F. Drinan, S.J., entered the Society of Jesus in 1942 and was ordained as a Roman Catholic priest in 1953. After serving as a professor at and dean of the Boston College Law School, Father Drinan was a member of the United States House of Representatives from 1971–1981 and served on the House Committee on the Judiciary. Currently, Father Drinan is a Professor of Law at Georgetown University Law Center, teaching courses in fields including constitutional law and civil liberties. Throughout his career, he has worked extensively in the areas of civil rights and civil liberties and served as Chairman of the Advisory Committee for Massachusetts of the United States Commission on Civil Rights. Father Drinan supports the rights of school districts to voluntarily integrate their students.

HEBREW COLLEGE

Hebrew College is a small, specialized university training primarily graduate and professional students but also several thousand adult learners and others in all areas of Jewish tradition, culture, and civilization. A key to understanding the institution is its inclusiveness, reaching within the Jewish community to every religious denominational group as well as to secular and cultural Jews, and beyond the Jewish community through its Interreligious Center on Public Life, its International Summer School on Religion and Public Policy, and its Interreligious Collaborative with its neighbor, the Andover Newton Theological School. Inclusiveness is the key to understanding the College's mission: to contribute to transforming religion from a contributor to the pathologies of our fractured world into an instrument of healing and repair of relationships between peoples. These two foci, education and social repair, explain our commitment to the centrality of the public school as an instrument for fostering mutual respect, civility, peaceful discourse, and mutual understanding. The public school is a key to instilling the value of diversity as a blessing rather than a threat, and the role of the public school in forging the civil society needs to be strengthened by such programs as voluntary integration. This is a value to which Hebrew College is committed in all its work, and it explains our decision to join as *amicus curiae* in this matter.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE USA

Since its founding in 1950, the National Council of the Churches of Christ in the USA has been the leading force for ecumenical cooperation among Christians in the United States. The NCC's member faith groups - from a wide

spectrum of Protestant, Anglican, Orthodox, Evangelical, historic African American and Living Peace churches - include 45 million persons in more than 100,000 local congregations in communities across the nation.

The NCC works for peace and justice in the United States, addressing issues ranging from poverty and racism, to the environment, family ministries, and much more. It serves churches through a wide variety of educational ministries. The NCC strongly supports the right of local school districts to voluntarily integrate their schools.

NATIONAL MINISTRIES, AMERICAN BAPTIST CHURCHES USA

National Ministries is the home mission agency of the American Baptist Churches USA. National Ministries has been doing the work of home mission since 1832 when the American Baptist Home Mission Society was founded to meet the spiritual needs of people on the frontier of an expanding nation. Baptist women established the Women's American Baptist Home Mission Society in 1877 to "proclaim the Christian faith and to minister to people in special need." These two organizations worked cooperatively from the start and then in 1955 joined together to form one organization which, since 1972, has been engaged in mission and ministry as National Ministries. In 2003, National Ministries added to its work responsibility for the denomination's ministries of discipleship, education, and publishing. From their inception, the home mission societies were engaged in public and social advocacy. After the Civil War the home mission societies supported the establishment of 27 institutions of higher learning for freed people, recognizing then, as now, the urgency of providing a quality education for all. We are of the conviction that we must

continue to address the issues of race and class which prevent many children from realizing their God-given potential and which threaten both public education and democracy in the United States. To this end we encourage innovative and carefully monitored reform efforts in the public school system, giving particular attention to matters of access and justice in governance, financing, and selection of students.

REVEREND DR. EMILIE M. TOWNES

The Reverend Dr. Emilie M. Townes was ordained in the American Baptist Church USA in 1980. From 1989–1999, she served as a professor of Christian social ethics and Black church ministry at Saint Paul School of Theology, and was the Carolyn Williams Beaird Professor of Christian Ethics at Union Theological Seminary from 1999–2005. She is currently the Andrew W. Mellon Professor of African American Religion and Theology at Yale University Divinity School and teaches in the areas of Christian ethics, social policy, the African-American religious experience, and the religious experiences of African-American women. The Reverend Dr. Townes supports the right of school districts to voluntarily integrate their students.

SHALOM CENTER

The Shalom Center, founded in 1983, is rooted in the search for peace, justice, and the healing of the wounded world that is taught by Jewish religious tradition. In that process, we have found ourselves exploring how to connect with those Christians and those Muslims who share similar visions of the future that we seek. Again and again, we have found that Jewish wisdom becomes even richer when it comes into relationship with other traditions. As we achieve depth and perspective in our physical vision only because we have two

eyes, so exploring life questions with two or three or even more approaches to wisdom leads to a deeper understanding of our lives. This applies as well to the educational value for our children of sharing in our public schools the experiences and the teachings of different cultures, whether defined by different religious or different racial and ethnic backgrounds. For these profound educational reasons, we support the cultural integration of our schools, so that different perspectives can enrich our search for shared values and well-grounded knowledge.

SIKH COALITION

The Sikh Coalition works to 1) defend civil rights and liberties for all people; 2) promote community empowerment and civic engagement within the Sikh community; 3) create an environment where Sikhs can lead a dignified life unhindered by bias and discrimination; and 4) educate the broader community about Sikhism in order to promote cultural understanding and create bridges across communities. Ensuring schools are integrated and diverse is a key part of our mission to combat prejudice and discrimination. We join in this brief out of the belief that diversity in schools prepares students for participation in our pluralistic democracy and is a critical component in combating unlawful discrimination.

SOJOURNERS/CALL TO RENEWAL

Sojourners/Call to Renewal is a national organization, founded in 1971, whose mission is to articulate the biblical call to social justice, inspiring hope and building a movement to transform individuals, communities, the church, and the world. Our constituency includes Christians from across the political and theological spectrum who are committed to

promoting public policies that advance the common good of society. We believe that policies that value diversity within our public education system are crucial. When steps are voluntarily undertaken to integrate our school systems, those systems and our communities are strengthened. We believe that the experience of a diverse student body learning from and with each other is key to a unified society.

UNION FOR REFORM JUDAISM

The Union for Reform Judaism, founded in 1873, is the central body of the Reform Movement in North America including 900 congregations encompassing 1.5 million Reform Jews. The Reform Jewish Movement comes to this issue out of our longstanding belief in the value of diversity in education and our country generally. The Jewish tradition has always been sensitive to the plight of the stranger. Despite remedial efforts, a long and unfortunate history of injustice and prejudice has made African-Americans, Latinos, women, and other oppressed groups strangers in society's mainstream. As Jews deeply committed to the prophetic imperatives of our tradition, the Reform Movement is dedicated to those policies that will create justice for all people. The importance of equality in the Jewish tradition is based on the concept that all of God's children are "created in the image of God" (Genesis 1:27). History teaches that all people benefit when the barriers to true equality are removed.

UNITARIAN UNIVERSALIST ASSOCIATION

The Unitarian Universalist Association is a religious association of more than 1,000 congregations in the United States and North America. Through its democratic process, the Association adopts resolutions consistent with its fundamental principles and purposes. In particular, the

Association has adopted numerous resolutions affirming racial justice and the importance of integration in American education. Most relevant to the case at the bar are the Association's resolutions which specifically condemn both formal and *de facto* school segregation and which call on government on all levels to work to correct discriminatory racial imbalances in the public schools.

UNITED CHURCH OF CHRIST JUSTICE AND WITNESS MINISTRIES

The United Church of Christ Justice and Witness Ministries ("UCCJWM") coordinates and implements the denomination's justice advocacy mandates on behalf of 1.2 million members in 6,000 congregations in the United States. In the tradition of its forebears who brought community schooling and higher education to the New England colonies, the UCC's history includes the founding of numerous schools for freed slaves throughout the South during and after the Civil War. The UCC has historically worked to strengthen public schools, to ensure they are funded equitably, and to promote diverse school settings where children of all racial, ethnic, and economic groups come together to learn from each other. In 2001, the UCC's General Synod, its highest denominational governing assembly, called upon its members and congregations to work to safeguard public education as a basic and fundamental civil right.